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Attorneys for eTreppid Technologies, L.L.C. and Warren Trepp

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEVADA**

DENNIS MONTGOMERY, an individual; and  
MONTGOMERY FAMILY TRUST, a California  
Trust,

Plaintiff,

vs.

ETREPPID TECHNOLOGIES, L.L.C., a Nevada  
Limited Liability Company; WARREN TREPP,  
an individual; DEPARTMENT OF DEFENSE of  
the UNITED STATES OF AMERICA, and  
DOES 1 through 10,

Defendants.

\_\_\_\_\_  
AND ALL RELATED CASE(S)  
\_\_\_\_\_

Case No. 3:06-CV-00056-BES-VPC  
**Base File**

Case No. 3:06-cv-00145-PMP-VPC

**ETREPPID TECHNOLOGIES, L.L.C.  
AND WARREN TREPP'S STATUS  
REPORT AS OF MARCH 12, 2008**

eTreppid Technologies L.L.C. and Warren Trepp (collectively "eTreppid") hereby submit their  
Status Report in anticipation of the status conference scheduled for March 17, 2008.

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**A. The Montgomery Parties' Motion, for Order on Shortened Time Staying Magistrate Judge's Order Filed February 21, 2008 ("Motion for Stay").**

On March 10, 2008, the Montgomery Parties filed a motion seeking an order "staying Items 4, 9, 10 and 13" in this Court's Order entered February 21, 2008 "pending a ruling on their Objections To, Request for Reconsideration Of, And Notice of Motion to Modify Magistrate Judge's Order." *See* Motion dated February 21, 2008. On March 11, 2008 this Court denied Montgomery's request that its Motion for Stay be heard on shortened time, prior to the March 14, 2008 deadline in which Montgomery has been ordered to produce documents. As no stay has been entered, Montgomery is still obliged to provide the documents that he was ordered to produce at the February 21, 2008 Status Conference on or before March 14, 2008.

**B. The Ashley Quinn Subpoena Duces Tecum.**

On February 25, 2008 Montgomery served eTreppid's former certified public accounting firm Ashley Quinn with a subpoena duces tecum. Montgomery failed to provide notice to eTreppid prior to serving the subpoena. eTreppid learned of the subpoena only after it was notified by counsel for Ashley Quinn. eTreppid reviewed the subpoena and authorized Ashley Quinn to produce documents responsive to Montgomery's requests. Counsel for Ashley Quinn requested that eTreppid provide written consent to produce the documents. On March 3, 2008 eTreppid, through its counsel, provided written consent for Ashley Quinn to produce the documents. Ashley Quinn's counsel notified eTreppid that the consent form eTreppid had provided was insufficient and requested that eTreppid provide additional written consent. eTreppid provided an additional letter of consent on March 12, 2008. *See* Letter attached to Montgomery's Status Report as Exhibit "1". eTreppid does not object to Ashley Quinn producing the requested documents but is otherwise unaware of the status of Ashley Quinn's document production.

**C. United States Vendor Protocols.**

eTreppid is still awaiting finalized vendor protocols to be approved with respect to producing electronically stored information, as set forth in the minutes of the telephonic proceedings of February 29, 2008.

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**D. Montgomery's Supplemental Responses to Interrogatories.**

Montgomery has provided no substantive responses to eTreppid's First Set of Interrogatories: Nos. 3, 4, 5, 6, 7, and 9. On March 5, 2008, counsel for Montgomery advised counsel for eTreppid that Montgomery would provide supplemental responses to Interrogatories 3, 5, 6, 7, and 9. *See Exhibit "A"*. However, Montgomery has not committed to providing these responses by any particular date. Montgomery asserted that he would not provide a response to Interrogatory No. 4, which requests that Montgomery identify any document that he contends is substantially similar to any of his copyrighted work, because such a response "will be tied to the outcome of the related document requests that seek discovery of the actual software." *See Exhibit "B"*.

There is no basis for Montgomery's continued refusal to respond to Interrogatory No. 4. Montgomery has alleged copyright claims against eTreppid; he should be required to identify the infringing works with particularity. Notably, in Montgomery's March 10, 2008 Motion for a Protective Order, he does not even argue that he should not be required to respond to Interrogatory No. 4. Accordingly, eTreppid respectfully requests that this court order Montgomery to provide supplemental responses to Interrogatory No. 4. In addition, eTreppid requests that Montgomery be ordered to provide all supplemental interrogatory responses on or before March 21, 2008.

Dated: March 13, 2008.

/s/

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-and-

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Attorneys for eTreppid Technologies, L.L.C. and  
Warren Trepp

**PROOF OF SERVICE**

I, Cynthia L. Kelb, declare:

I am employed in the **City of Reno, County of Washoe, State of Nevada**, by the law offices of Hale Lane Peek Dennison and Howard. My business address is: **5441 Kietzke Lane, Second Floor, Reno, Nevada 89511**. I am over the age of 18 years and not a party to this action. I am readily familiar with Hale Lane Peek Dennison and Howard's practice for collection of mail, delivery of its hand-deliveries and their process of faxes.

On March 13, 2008, I caused the foregoing **ETREPPID TECHNOLOGIES, L.L.C. AND WARREN TREPP'S STATUS REPORT AS OF MARCH 12, 2008** to be:

X filed the document electronically with the U.S. District Court and therefore the court's computer system has electronically delivered a copy of the foregoing document to the following person(s) at the following e-mail addresses:

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Nicole Trotta, Esq.  
Robert Crowley, Esq.  
Dorsey & Whitney, LLP  
1420 Fifth Ave., Ste. 3400  
Seattle, Washington 98101

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, and that this declaration was executed on March 13, 2008.

/s/\_\_\_\_\_  
Cynthia L. Kelb

**EXHIBIT “A”**

**EXHIBIT “A”**

## Jerry Snyder


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**From:** Tuneen E. Chisolm [TCHISOLM@linerlaw.com]  
**Sent:** Wednesday, March 05, 2008 4:48 PM  
**To:** Jerry Snyder  
**Cc:** Deborah A. Klar; Lori L. Werderitch  
**Subject:** Resolution of eTreppid Interrogatories at Issue

Jerry:

We understand eTreppid seeks further responses to eTreppid's First Set of Interrogatories Nos. 3, 4, 5, 6, 7, 8, 9 and 10.

We already provided supplemental responses to Nos. 8 and 10. We will provide supplemental responses to the rest, however any further response to No. 4 will be tied to the outcome of the related document requests that seek discovery of actual software.

**Tuneen E. Chisolm, Esq.**  
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**EXHIBIT “B”**

**EXHIBIT “B”**



## Jerry Snyder

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**From:** Jerry Snyder  
**Sent:** Friday, March 07, 2008 2:42 PM  
**To:** 'Tuneen E. Chisolm'  
**Cc:** Cynde Kelb  
**Subject:** RE: Resolution of eTrepid Interrogatories at Issue

Tuneen,

The only specific objection you previously asserted to Interrogatory No. 4 was that you cannot respond to it without violating the U.S. Protective Order. As per that protective order and the related protocols, Montgomery is obliged to provide his response to the attorneys for the United States in this matter. Please confirm that you will do so. Regardless of whether or not the court orders Montgomery to provide the source code and executables at issue, he still needs to identify which material he claims violated his alleged copyrights.

As to the remaining interrogatories, when will you provide supplemental responses?

---

**From:** Tuneen E. Chisolm [mailto:TCHISOLM@linerlaw.com]  
**Sent:** Friday, March 07, 2008 11:16 AM  
**To:** Jerry Snyder  
**Cc:** Deborah A. Klar; Lori L. Werderitch  
**Subject:** RE: Resolution of eTrepid Interrogatories at Issue

Jerry-

I haven't heard from you regarding the email below. Is it still necessary for me to file an opposition on Monday or not?

---

**From:** Tuneen E. Chisolm  
**Sent:** Wednesday, March 05, 2008 4:48 PM  
**To:** 'Jerry Snyder'  
**Cc:** Deborah A. Klar; Lori L. Werderitch  
**Subject:** Resolution of eTrepid Interrogatories at Issue

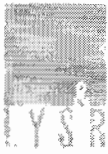
Jerry:

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We already provided supplemental responses to Nos. 8 and 10. We will provide supplemental responses to the rest, however any further response to No. 4 will be tied to the outcome of the related document requests that seek discovery of actual software.

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3/13/2008



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